3828.

BILL NO. S-77-10-31

SPECIAL ORDINANCE NO. S-232-77

AN ORDINANCE approving a contract with St. Vincent Catholic Church for construction of a sanitary sewer.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the contract dated October 5, 1977, between the City of Fort Wayne, by and through its Mayor and the Board of Public Works and St. Vincent Catholic Church, for:

> Commencing at a proposed manhole over the St. Joe interceptor sanitary sewer located 230+ LF East of and 20+ LF South of the centerline intersection of Wallen Road and Old Auburn Road; thence westerly a distance of 850+ LF in a proposed easement terminating at a proposed manhole, All in the Northeast Quarter of Section 12, Township 31 North, Range 21 East, Allen County, Indiana.

of which the developer shall pay the entire cost and expense of the construction of said sewer, all as more particularly set forth in said contract which is on file in the Office of the Board of Public Works and is by reference incorporated herein, made a part hereof and is hereby in all things ratified, confirmed and approved.

SECTION 2. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Councilman

APPROVED AS TO FORM
AND LEGALITY,
CITY ATTORNEY

Read the first time in full and on motion by D. Schmidt seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on Public Works (and ~~the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the~~ Council Chambers, ~~City-County Building, Fort Wayne, Indiana, on~~ _____, the _____ day of _____, 19__, at _____ o'clock _____ M., E.S.T.

DATE: 10-25-77

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Moses, seconded by Hinga, and duly adopted, placed on its passage.

PASSED (~~LOST~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	9				
BURNS	✓				
HINGA	✓				
HUNTER	✓				
MOSES	✓				
NUCKOLS	✓				
SCHMIDT, D.	✓				
SCHMIDT, V.	✓				
STIER	✓				
TALARICO	✓				

DATE: 11-8-77

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ZONING MAP) (GENERAL)~~ (ANNEXATION) (SPECIAL) ~~(APPROPRIATION)~~ ORDINANCE ~~(RESOLUTION)~~ No. S-232-77 on the 8th day of November, 19 77

ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

John Nuckols
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 9th day of November, 19 77, at the hour of 11:45 o'clock A M., E.S.T.

Charles W. Westerman
CITY CLERK

Approved and signed by me this 10th day of November, 19 77, at the hour of 10:00 o'clock A M., E.S.T.

Robert Armstrong
MAYOR

Bill No. S-77-10-31

REPORT OF THE COMMITTEE ON PUBLIC WORKS

We, your Committee on PUBLIC WORKS to whom was referred an Ordinance Approving a contract with St. Vincent Catholic Church for construction of a sanitary sewer

have had said Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance DO PASS.

WINFIELD C. MOSES, JR. - CHAIRMAN

DONALD J. SCHMIDT

VIVIAN G. SCHMIDT

PAUL M. BURNS

SAMUEL TALARICO

11-8-77 CONCURRED IN

DATE CHARLES W. WESTERMAN, CITY CLERK

Memorandum

To Board of Public Works Date October 10, 1977

From Water Pollution Control Engineering

Subject St. Vincent Catholic Church Sanitary Sewer

COPIES TO:

Please find attached three copies of an agreement between the Diocese of Fort Wayne-South Bend, Inc. and the City of Fort Wayne for an extension of the above mentioned sanitary sewer. If this agreement meets with your approval please execute and return to this Department for recording. The owner has granted the City an easement for this extension.

Very truly yours,

Philip R. Boller

Philip R. Boller, P.E.
Chief Water Pollution Control Engineer

PRB/CW/rh
attachments

A G R E E M E N T

F O R

S E W E R E X T E N S I O N

THIS AGREEMENT, made in triplicate this 5TH day of OCTOBER, 1977, by and between St. Vincent Catholic Church, hereinafter referred to as "Developer", and the CITY OF FORT WAYNE, INDIANA, an Indiana Municipal Corporation, hereinafter referred to as "City",

W I T N E S S E T H:

WHEREAS, the Developer desires to construct an eight (8) inch sanitary sewer described as follows:

> Commencing at a proposed manhole over the St. Joe interceptor sanitary sewer located 230±LF East of and 20±LF South of the centerline interesection of Wallen Road and Old Auburn Road; thence westerly a distance of 850±LF in a proposed easement terminating at a proposed manhole, All in the Northeast Quarter of Section 12, Township 31 North, Range 12 East, Allen County, Indiana.

In accordance with plans, specifications and profiles heretofore submitted to the City and now on file in the office of the Chief Engineer of the Water Pollution Control Utilities of the City and known as St. Vincent - Wallen Road-Old Auburn Road sanitary sewer, which plans, specifications, profiles are by reference incorporated herein and made a part hereof, which sewer will serve land in which the Developer has an interest.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the City, under private contract after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said sewer shall become the property of City and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by City, and all further maintenance thereafter

shall be borne by City.

2. COST OF CONSTRUCTION

The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including City engineering and inspection fees, and to hold the City harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER

Said sewer when accepted by the City will serve the following described real estate:

> The South 85 feet of the Eastern 260 feet of the Southeast Quarter of Section 1, Township 31 North, Range 12 East; and a part of Lots #1,2,6, and 7 in Academic Addition in the Northeast Quarter of Section 12, Township 31 North, Range 12 East; all in Allen County, Indiana, as shown on Exhibit A.

As the Developer will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connections to City sewer mains and treatment of sewage therefrom.

An area connection charge of $475.00 per acre must be paid to City at the time of connection. This area connection charge represents the oversizing cost expended by City for St. Joe Interceptor Sewer authorized by Resolution No. 61-140-11 recorded October 1, 1974.

4. BOND

This contract is subject to Developer furnishing a satisfactory Performance and Guaranty Bond for 25% of the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the City.

5. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns, or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

6. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

The Developer, for himself, his successors in title and assigns, waives and

releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to , interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof. Pursuant to Burns Indiana Statutes Anno. I. C. 19-2-7-16, 17 & 18.

In further consideration and to induce City to execute and ratify this contract, said Developer, for himself, his successors and assigns, agrees by this contract to vest in City the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

Developer further agrees that any deeds, contracts, or other instruments of conveyance made by the Developer, its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instruments from the Developer, his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Developer further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of City who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer.

7. GOVERNING STATUTE

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (Burns Indiana Statutes Anno., 1968 Supple.,Sections 48-3963, 3964 & 3965), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respect subject to approval by the Common Council of City, by duly adopted Ordinance, and if such

Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

DEVELOPER:

William J. Voors (William J. Voors, Secretary)

William E. McManus (William E.McManus,Pres.)
DIOCESE OF FORT WAYNE-SOUTH BEND, INC.

CITY OF FORT WAYNE, INDIANA

BY: _____
Robert Armstrong, Mayor

BOARD OF PUBLIC WORKS:

_____
Henry Wehrenberg, Chairman

_____
Ethel H. LaMar, Member

_____
Max G Scott, Member

ATTEST:

_____
Ursula Miller, Clerk

APPROVED AS TO FORM AND LEGALITY:

_____
Assoc. City Attorney

STATE OF INDIANA:
SS
COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public and and for said County and State, personally appeared WILLIAM J VOORS & WILLIAM E McMANUS, who acknowledged the execution of the foregoing agreement for sewer extension, as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 5TH day of OCTOBER, 1977.

Harvey M Woodring
Notary Public

My Commission Expires:

NG
[illegible] 30, 1981

This instrument prepared by
P. R. Boller, P. E.
Chief Water Pollution Control Engineer

CERTIFICATE

THIS IS TO CERTIFY that the undersigned is the duly elected, qualified and acting Assistant Secretary-Treasurer of the Diocese of Fort Wayne-South Bend, Inc. That at a special meeting of the Board of Directors of the Diocese of Fort Wayne-South Bend, Inc. duly called and held on Tuesday, March 19, 1957 the following resolution was moved, seconded, and upon vote, unanimously adopted:

"BE IT RESOLVED, That any two of the following officers, namely, President, any Vice President, Secretary, Assistant Secretary, Treasurer or Assistant Treasurer be and they are hereby authorized and empowered to sell and convey, to execute deeds or other instruments of conveyance, to execute options to acquire or to sell, to negotiate loans and execute notes, mortgages or other evidences of indebtedness on any and all real estate in the name of or belonging to this corporation in any capacity and such written instruments as herein authorized shall be executed or attested by either the Secretary or Assistant Secretary."

By: Joseph Barbieri Jr.
Joseph Barbieri, Jr.
Assistant Secretary-Treasurer

Dated: Oct 4, 1977

CERTIFICATE OF SURVEY

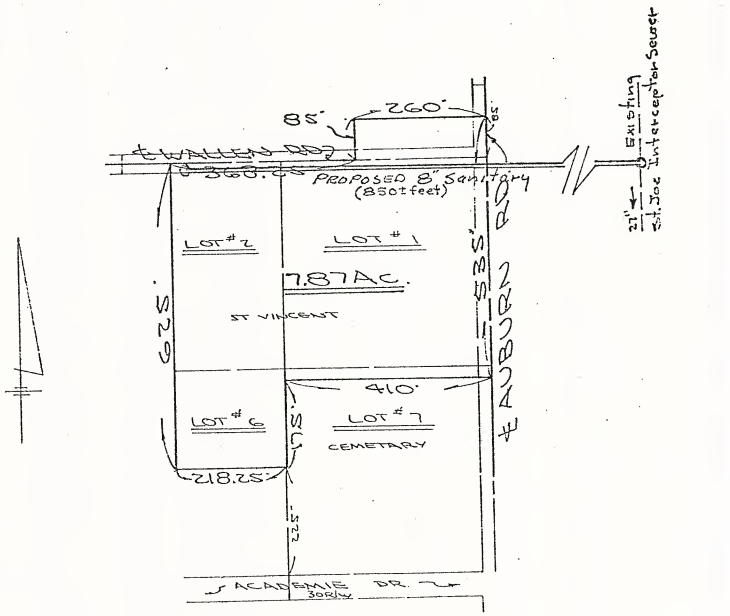
OFFICE OF:

JOHN R. DONOVAN
REGISTERED PROFESSIONAL CIVIL ENGINEER No. 9173 INDIANA
REGISTERED LAND SURVEYOR No. 9921 INDIANA
FORT WAYNE, INDIANA

The undersigned Civil Engineer and Land Surveyor hereby certifies that he has made a resurvey of the real estate shown and described below.

Measurements were made and corners perpetuated as shown hereon, in accordance with the true and established lines of the property described, and in conformity with the records in the office of the County Recorder, ALLEN County, Indiana. No encroachments existed, except as noted below.

The description of the real estate is as follows, to wit:



JOB FOR: ST. VINCENT

1" = 200'
8-15-77

JOHN R. DONOVAN

GRANT OF EASEMENT

THIS INDENTURE WITNESSETH THAT: THE DIOCESE OF FORT WAYNE-SOUTH BEND, INC. of Allen County, State of Indiana, hereinafter referred to as "GRANTOR", for and in consideration of One Dollar, receipt of which is hereby acknowledged, does hereby grant, quit-claim, and convey to the CITY OF FORT WAYNE, hereinafter referred to as "GRANTEE", a permanent easement and right-of-way to construct, operate, control, maintain, reconstruct, and remove a sewer line, along and across the following described real property, located in Allen County, State of Indiana, to wit:

A 14 foot easement 7 feet either side of the following described line.
Part of the Northwest Quarter of Section 6, Township 31 North, Range 13 East, in Allen County, Indiana, more particularly described as follows:
Beginning at a point on the West line of the Northwest Quarter of Section 7, Township 31 North, Range 13 East, in Allen County, Indiana, said point being 20 feet South of the Northeast corner of Lot #1 in Academie Addition; thence East parallel to the North line of Lot #1 extended East a distance of 240 feet to a point of termination, together with
A 5 foot easement 2.5 feet either side of the following described line.
Part of Lot #1 and Lot #2 in Academie Addition in the Northeast Quarter of Section 12, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:
Beginning at a point on the West line of Lot #2 in Academie Addition in the Northeast Quarter of Section 12, Township 31 North, Range 12 East, Allen County, Indiana, said point being 22.5 feet South of the Northwest corner of Lot #2; thence East and parallel to the North line of Lot #1 and Lot #2 a distance of 628.25 feet to a point on the East line of Lot #1 said point being the point of termination.

Grantor certifies under oath that no Indiana Gross Income Tax is due or payable in respect to the transfer made by this deed.

EXECUTED THIS 5th DAY OF October 1977.

William E. McManus

William E. McManus, President

William J. Voors

William J. Voors, Secretary

STATE OF INDIANA:
SS:
COUNTY OF ALLEN:

Before me, the undersigned, a Notary Public in and for said county and state, personally appeared
who acknowledged the execution of the foregoing Grant of Easement, as and for voluntary act and deed, for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 5th day of October 1977.

Virginia L. Strawbridge

MY COMMISSION EXPIRES:

December 5, 1978

This instrument prepared by : Philip R. Boller
John R. Donovan, P.E.

RU

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT FOR SEWER EXTENSION WITH ST. VINCENT CATHOLIC CH.

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS S-77-10-31.

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION FOR ST. VINCENT CATHOLIC CHURCH ON LAND KNOWN AS ST. VINCENT - WALLEN ROAD - OLD AUBURN ROAD AREA FOR THE PURPOSE OF INSTALLING A SEWER TO ST. VINCENT CATHOLIC CHURCH.

(COPY OF AGREEMENT ATTACHED)

EFFECT OF PASSAGE PUBLIC SEWER EXTENSION INSTALLED TO SERVE ST. VINCENT CATHOLIC CHURCH AND AND THE PUBLIC WHERE NECESSARY. SEWER IS TO REPLACE THE SEPTIC TANK, WHICH SEWER WAS REQUESTED BY THE COUNTY BOARD OF HEALTH.

EFFECT OF NON-PASSAGE SEPTIC TANK WOULD REMAIN, CAUSING DETRIMENT TO HEALTH AND ENVIRONMENT

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) EXPENSES TO BE BORNE BY DEVELOPER, I.E. THE CHURCH, ABOVE-NAMED

ASSIGNED TO COMMITTEE

EP

Public Works